

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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ALTICOR, INC.,

Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA,

Defendant.

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Case No. 1:03-CV-350

Hon. Richard Alan Enslen

**ORDER**

This matter is before the Court on Plaintiff Alticor, Inc.'s Motion to Enforce Settlement Agreement. Specifically, Plaintiff argues that Defendant National Union Fire Insurance Company of Pittsburgh, PA has violated the Settlement Agreement reached in April 2006. Said Agreement required Defendant to pay certain defense costs associated with specified Texas litigation. (Settlement Tr. 7; Settlement Agreement 4 ¶ 1.a.) Defendant has opposed such Motion. Oral argument is unnecessary in light of the briefing.

The relief sought is premature and inconsistent with the jurisdictional requirements of the federal courts. The disputed fees concern in large part invoices that Defendant had not at the time of the Motion filing received, nor had an opportunity to process in the ordinary course of its business. The Order of Dismissal of May 23, 2006 failed to reserve jurisdiction to this Court to enforce the Settlement Agreement. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381 (1994). As such, the proper procedure to obtain relief is to file a separate action invoking the Court's jurisdiction. *See id.* While Plaintiff argues that this is inefficient, given the rule in *Kokkonen*, it is far more efficient than attempting to enforce a settlement without jurisdiction and subject to appeal.

**THEREFORE, IT IS HEREBY ORDERED** that Plaintiff Alticor, Inc.'s Motion to Enforce Settlement Agreement (Dkt. No. 281) is **DENIED** without prejudice to later action.

DATED in Kalamazoo, MI:  
May 14, 2007

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE